

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JOSEPH FIERRO,

**DEFENDANTS' NOTICE
OF MOTION TO DISMISS**

Plaintiff, 07 Civ. 11214 (SAS)

- against -

THE CITY OF NEW YORK, et al.,

Defendants.
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PLEASE TAKE NOTICE, that upon Defendants' Memorandum of Law In Support Of Their Motion To Dismiss, dated May 13, 2008, and all prior papers and proceedings had herein, defendants will move this Court, before the Honorable Shira A. Scheindlin, United States District Judge, Southern District of New York, at the Courthouse thereof, 500 Pearl Street, New York, New York, on June 13, 2008, for an order, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, dismissing the complaint in its entirety on the grounds that the complaint is barred, in part, by the applicable statute of limitations, the individual defendants are shielded from suit by qualified immunity, the City of New York is not a proper party, as to state claims plaintiff has failed to perform a condition precedent to suit under New York law, and the complaint fails to state a claim upon which relief can be granted, entering judgment for defendants and granting defendants costs, fees, and disbursements together with such other and further relief as the Court deems just and proper.

PLEASE TAKE FURTHER NOTICE, that, pursuant to the order of this Court, any papers in opposition to defendants' motion to dismiss, are to be served by June 6, 2008 and defendants shall have until June 13, 2008 to reply.

PLEASE TAKE FURTHER NOTICE, that, pursuant to Rule 12 of the Federal Rules of Civil Procedure, in the event that this motion is denied, in whole or in part, defendants respectfully request 20 days from docketing of the order denying the motion in which to answer the First Amended Complaint.

Dated: New York, New York
May 13, 2008

Respectfully Submitted,

MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
Attorney for the Defendants
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By:



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To: OFODILE & ASSOCIATES
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MICHAEL A. CARDOZO <i>Corporation Counsel of the City of New York</i> Attorney for Defendants 100 Church Street, Room 2-316 New York, N.Y. 10007-2601	
Of Counsel: Kami Z. Barker Tel: (212) 788-1202	
Our No.: 2007-038307	
Due and timely service is hereby admitted.	
Dated: New York, N.Y., 2008	
Signed:	
Attorney for.....	